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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/616,870	07/14/00	BEAUDRY	W 8115-12394A-

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QM22/1025

EXAMINER

LEWIS, K

ART UNIT	PAPER NUMBER
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3761

DATE MAILED:

10/25/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.
09/616,870

Applicant(s)

Beaudry

Examiner

Kim M. Lewis

Group Art Unit

3761



☒ Responsive to communication(s) filed on Jul 14, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 3 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claim

☒ Claim(s) 26-54 is/are pending in the application

Of the above, claim(s) _____ is/are withdrawn from consideration

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 26-32, 36-42, and 46-54 is/are rejected.

☒ Claim(s) 33-35 and 43-45 is/are objected to.

☐ Claims _____ are subject to restriction or election requirement.

Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☒ The drawing(s) filed on Jul 14, 2000 is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☒ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
☐ received.

☒ received in Application No. (Series Code/Serial Number) 09/180,572

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

☒ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

Art Unit: 3761

DETAILED ACTION

Response to Amendment

1. The preliminary amendments filed 7/14/00 have been received. The specification has been amended to include the continuing data and claims 1-25 and 55-103 have been canceled.

Drawings

2. The drawings are objected to because in Figs. 28, 29 and 30 are cross-sectional views; however, the planes upon which the cross-sectional views are taken is not indicated on the view from which the section is cut by a broken line. MPEP 608.02(h)(3). Correction is required.
3. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: "10" is not shown in Figs. 2, 3 and 4 as indicated on page 12; "20" is not shown on Fig. 18 as stated on page 18, line 2. The above stated errors are illustrative only and is not an exhaustive list. The applicant is advised to peruse the specification and the drawings for other such inconsistencies. Correction is required.

Specification

4. The disclosure is objected to because of the following informalities:

Art Unit: 3761

On page 12 of the specification, the applicant provides two descriptions for Fig. 19. The first of which seems to be correct, the second, incorrect. Also, the brief description of Fig. 26 on page 12 incorrectly describes the figure;

On page 18, the applicant describes "64" as "horseshoe shaped cuts", while on page 21, line 21, the applicant refers to "64" as "U shaped incisions". The applicant is advised to remain consistent when designating and/or describing the reference characters;

Additionally, the examiner has noted other such inconsistencies in the specification. For example, on page 25, line 22 the applicant refers to "325" as "central section", while on page 24, lines 25-26, the applicant refers to "325" as "center section". The applicant is advised to once again thoroughly peruse the specification and drawings for other inconsistencies. Appropriate correction is required.

Claim Objections

Applicant is advised that should claim 37 be found allowable, claim 46 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Art Unit: 3761

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 26-31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,534,010 ("Peterson").

Regarding claim 26, Peterson discloses a closure device for a skin wound comprising a first section having adhesive on a first side (col. 3, lines 5-6), an elastic second section (col.3, lines 31-34) and a third section having adhesive on a first side (col. 3, lines 6-7), as indicated on the front page of the patent. Further, as can be seen from the front page of the patent, the first section is connected to the second section and the second section is connected to the third section.

Regarding claim 27, as can be seen from the figures, the second section has a plurality of openings.

Regarding claims 28-30, the openings have a predetermined size and shape, and are spatially organized in a predetermined manner respective to each other.

Regarding claim 31, as can be seen from the front page of the patent, the examiner has indicated the first and second margins of the second section, which are integral with the first and second sections, respectively.

Art Unit: 3761

7. Claims 26, 32, 36, 37, 41, 42, 46, 47 and 49 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,788,660 ("Resnik").

Regarding claims 26 and 36, Resnik discloses an anchor for surgical dressing comprising a first, second and third elastic sections. The first and third sections having a first side having adhesive thereon, and the first and third sections are each connected to the second section.

Regarding claims 37 and 46, As can be seen from the front page of the patent, the second section has at least one opening.

Regarding claim 41, note the front page of the patent which indicates the margins.

Regarding claims 32 and 42, note the layer shown in Fig. 2 of Resnick.

Regarding claim 47, the openings in the second section are transparent.

Regarding claim 49, the second side of the section is capable of contacting a wound of a user.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Resnick.

Art Unit: 3761

Regarding claims 38-40, Resnick fails to teach the openings are a predetermined size, shape and has a predetermined spatial organization. Instead, Resnick provides the user with the option of determining the size, shape and spatial organization of the opening such that the device can be tailored to the individual use. Absent a critical teaching of such predeterminants, the examiner contends that the predeterminants would have been an obvious design choice which does not patentably distinguish applicant's invention.

10. Claims 50-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Resnick.

Regarding claims 50-54, the device of Resnick is for securing a dressing to a user. As such, when in use, the second section of the device could comprise the dressing. Although Resnick is silent as to medicaments being used on the dressing to treat the wound, the examiner contends that the addition of medicaments to wound dressings is well known in the art, and that the type of medicament used (*i.e.*, zinc chromate calcium alginate or sodium alginate) does not patentably define applicant's invention since the disclosed medicaments are well known and used in the art.

Allowable Subject Matter

11. Claims 33-35 and 43-45 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

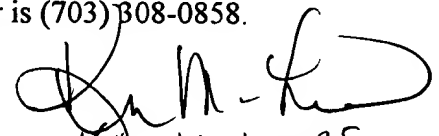
Art Unit: 3761

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kim M. Lewis whose telephone number is (703) 308-1191. The examiner can normally be reached on Mondays to Thursdays from 5:30 am to 4:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Weiss, can be reached on (703) 308-2702.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0858.

kml
October 20, 2000


Kim M. Lewis
Primary Examiner
AU 3761